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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR           | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------------|---------------------|------------------|
| 10/624,874      | 07/22/2003  | Kimberly Adams Lamson-Scribner | 235p-Lamson         | 6795             |

7590 08/10/2004  
The Law Office of Craig W. Barber  
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EXAMINER

LOFDAHL, JORDAN M

ART UNIT PAPER NUMBER

3644

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/624,874

Applicant(s)

LAMSON-SCRIBNER, KIMBERLY  
ADAMS

Examiner

Jordan Lofdahl

Art Unit

3644

*NW*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11, 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

In response to applicant's argument that Steiner et al. is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the applicants device is a mobile which is the same art as the prior art.

Applicant argues that the limitation of the suspension member is strong enough to resist breaking by a prey animal is not necessary in a toy mobile. Since the prior art has the same structure it is capable of resisting breaking whether or not the limitation is not necessary for a toy mobile. The definition of a bumper is a device for absorbing shock which is exactly what the end of the beam is capable of doing.

### ***Claim Objections***

Claims 11, 13 and 14 are objected to because of the following informalities: Although claims 11, 13 and 14 are stated to be withdrawn, they are not shown in the list of claims. Examiner requests that the text of the claims be shown in the listing of claims or the claims be cancelled. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12, 14, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Steiner et al. (2994156).

As to claim 1, Steiner et al. discloses a device comprising a plurality of tiers having at least one horizontal beam; each beam having a cat attractant; each beam of the lowest tier having a plurality of cat attractants (fig. 1) and an end bumper (read as the end of the beam).

As to claim 2, disclosed are the cat attractants are visual proximate.

As to claim 3, disclosed are prey (fig. 1).

As to claim 4, disclosed is solitary prey.

As to claim 5, disclosed is a suspension means.

As to claim 6, disclosed is a suspension device.

Art Unit: 3644

As to claim 7, disclosed is a hook.

As to claim 8, disclosed is a suspension line.

As to claim 9, disclosed is a suspension member wrapped around a notch (fig. 1).

As to claim 10, is passing through the beam.

As to claim 12, disclosed is the end bumper comprising a cat attractant (12).

As to claim 14, disclosed is a device capable of being placed above a climbing object.

As to claim 15, disclosed is a device capable of being placed where an animal can contact it.

As to claim 17, disclosed are multiple tiers and levels; a primary axis (22) at the highest tier suspending the remainder of the interactive toy; a plurality of cat attractants (25) suspended symmetrically by weight about the axis of suspension and suspended in vertically layered tiers (fig. 1); and a climbing object (16).

***Claim Rejections - 35 USC § 103***

Art Unit: 3644

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steiner et al. (2994156).

As to claim 16, disclosed is a first tier comprising a first beam, the first beam having at least one additional beam suspended from it (fig. 1); at least one beam having a plurality of cat attractants (28 and 27) in visual proximity together. Not disclosed is a beam coating. It would have been obvious to one having ordinary skill in the art at the time the invention was made to paint the beam which would be read as a beam coating to create a more aesthetically pleasing device.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jml



MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER